

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMES A. FOGUTH AND
ALAN W. FOGUTH,

Plaintiffs,

Case No. 25-cv-11086
Hon. Matthew F. Leitman

v.

DISCOVER BANK, *et al.*

Defendants.

**ORDER (1) RECOGNIZING NOTICE OF VOLUNTARY DISMISSAL AS TO
CLAIMS BY ALAN W. FOGUTH (ECF Nos. 35, 57), (2) CANCELLING JUNE 13,
2025, MOTION HEARING, (3) TERMINATING ALL PENDING MOTIONS,
AND (4) CLOSING CASE**

On June 5, 2025, Plaintiff James A. Foguth filed a Notice of Voluntary Dismissal in this action pursuant to Federal Rule of Civil Procedure 41(a)(1)(A). (*See* Notice, ECF No. 35.) That Notice purported to voluntarily dismiss all of the claims brought in this action by both James Foguth and his co-Plaintiff Alan W. Foguth. (*See id.*) However, the Notice was not signed by Alan Foguth; it included only James Foguth's electronic signature. (*See id.*) Because Alan Foguth did not sign the Notice of Voluntary Dismissal, the Court declined to hold that the Notice was effective as to Alan. (*See* Order, ECF No. 43.) The Court therefore ordered Alan to personally appear for a previously-scheduled virtual motion hearing so that the Court could explore with Alan whether he intended to voluntarily dismiss his claims against the Defendants. (*See id.*) In the alternative, the Court told Alan that if he filed a signed Notice of Voluntary Dismissal with the Court prior to the

scheduled motion hearing, it would deem that Notice effective, cancel the hearing, and close this case. (*See id.*)

On June 11, 2025, Alan Foguth filed what he called a “Final Notice of Withdrawal and Non-Participation in Post-Dismissal Proceedings” with the Court. (*See* Notice, ECF No. 57.) That “Final Notice” bears Alan Foguth’s electronic signature (*see id.*, PageID.675), and in the “Final Notice,” Alan (1) confirmed that “[o]n June 5, 2025, [he] voluntarily dismissed this action” against the Defendants and (2) he “reaffirmed [his] complete withdrawal” of his claims in this action. (*Id.*, PageID.674-675.)

Based on the June 5, 2025, Notice of Voluntary Dismissal, and Alan Foguth’s affirmance of that Notice in his June 11, 2025, “Final Notice,” the Court will deem the June 5, 2025, Notice of Voluntary Dismissal effective as to Alan. Because that dismissal is self-executing, the claims in this action brought by Alan Foguth against the Defendants are **DISMISSED**. As both Plaintiffs have now voluntarily dismissed all of their claims against the Defendants, there are no claims left for the Court to adjudicate. Accordingly, the Court **CANCELS** the previously-scheduled June 13, 2025, motion hearing in this case and **TERMINATES** all pending motions in this action.

This case is now closed.

IT IS SO ORDERED.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: June 12, 2025

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on June 12, 2025, by electronic means and/or ordinary mail.

s/Holly A. Ryan

Case Manager

(313) 234-5126